

January 25, 2010

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

JANUARY 25, 2010

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
FRANCIS BEDETTI, JR.
PAT TORPEY
JAMES DITTBRENNER

ALSO PRESENT: ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

NICOLE JULIAN
ZONING BOARD SECRETARY

ABSENT: LEN MCDONALD

REGULAR_MEETING

MR. KANE: I'd like to call to order the January 25,
2010 meeting of the New Windsor Zoning Board of
Appeals.

APPROVAL_OF_MINUTES_DATED_12/14/09

MR. KANE: Motion to accept the minutes of December 14,
2009 as written.

MR. DITTBRENNER: So moved.

MR. BEDETTI: Second it.

ROLL CALL

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MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. TORPEY	AYE
MR. KANE	AYE

CLASSIC_HOME_BUILDERS_(ANTHONY_FAYO)_(10-03)

MR. KANE: Tonight's first preliminary meeting Classic Home Builders request for a variance for an existing building lot that does not meet minimum lot size, minimum lot width, minimum side yard or minimum requested side yard at 244 Bull Road.

Mr. Anthony Fayo appeared before the board for this proposal.

MR. FAYO: Keep it simple.

MR. KANE: Tell us what you want to do, just state your name and address for the stenographer.

MR. FAYO: Anthony Fayo, 308 Bull Road, Washingtonville, New York. Looking to just achieve a variance for a total of 16 feet, two feet on the right side, 14 feet on the left side and also trying to achieve the current 75 maximum, I got 102 now so I'm minus 75 feet.

MR. KANE: That's your frontage going out to the road?

MR. FAYO: Yes, total right now is 102.

MR. KANE: Cutting down any trees, substantial vegetation?

MR. FAYO: No, we will not be.

MR. KANE: Creating water hazards or runoff in the building of it?

MR. FAYO: No.

MR. KANE: Any easements running through the area where you want to put it up?

MR. FAYO: No, not to my knowledge, not at all.

MR. KANE: We've got some pictures.

MR. KRIEGER: Survey of the property?

MR. FAYO: Yes, I had a survey done about three years ago.

MR. KANE: Further questions at this time?

MR. BEDETTI: Yeah, what are you going to be building on there?

MR. FAYO: A single family residence, yes.

MR. BEDETTI: Are you on from the road itself are you on the high side of the road?

MR. FAYO: Low side.

MR. BEDETTI: Like all the mailboxes are on one side of the road?

MR. FAYO: For a part of the section of the road, yes.

MR. KANE: You're going to be using septic?

MR. FAYO: Yes, our engineer designed it.

MR. KANE: Further questions from the board at this time? If not, I'll accept a motion.

MR. BEDETTI: I'll make a motion that we schedule a public hearing for Anthony Fayo for a minimum lot size, minimum lot width and overall lot size variance as requested at 244 Bull Road in an R-1 zone.

MR. TORPEY: I'll second that.

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ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. KANE: You're all set up for a public hearing.

MR. FAYO: Thank you, good night.

JERRY_SABINI_(10-04)

MR. KANE: Next preliminary meeting Jerry Sabini request for proposed dwelling that will be 28 feet to the rear lot line, required rear lot is 50 feet, a variance of 22 feet is required at 615 Mt. Airy Road in an R-3 zone. Same thing, just tell us your name and address, speak loud enough for this young lady to hear you.

MR. SABINI: My name is Jerry Sabini, I live in New Windsor on Pin Oak Drive and what I did here is, what I'm requesting is I have a, I bought a house, an old house on 692 Mt. Airy Road, do you know where the soccer fields are, it's on the left-hand side as you're driving in and the fields would be on the left. It's a house that they had a fire in it so I bought it as is so it still has to be sheetrocked and finished. I have building permits for a front and rear porch, I'll finish building that home and then next that came attached was a separate block and lot, half acre lot and what it is I already had a perc test done by a licensed engineer on the lot so it will work. And I have a copy of the map here, do you want me to put it up on the easel? Okay, what I got is Mt. Airy Road is here, I want to put a, almost like a 48 x 28 foot foundation with a two car garage underneath cause the lot slopes down off Mt. Airy and the septic would be in the rear of the property and, you know, like I said, I think the lot's been subdivided about 15 years so I assumed this lot when I bought this house. And what it is the neighbor I already spoke to believe it or not he bought the house a year and a half ago, his driveway's actually on my lot, so I already made a deal with him so he can have a right-of-way, I'm not looking to hurt the guy, you know what I mean, rip his driveway out he would have no driveway. However he closed I don't know what happened to his title, I don't know what happened with the metes and bounds description, something's wrong. But I told him I'll cause him no grief, be like

four or five hundred dollars, he's agreed to pay it, I'll give him a right-of-way so there's no headaches. I want a half acre lot here and it's easier to give him a right-of-way than a lot line change, we don't have to go to the planning board.

MR. KANE: You're going to remove the remains of the stone foundation?

MR. SABINI: Yeah, it's kind of dilapidated that foundation, I got permission from the people prior to buying it they let me clear the lot, they had trees overgrowing the house. I called up Jen in the building department, there was a rear deck they never got a permit for. I took that out and put in a garbage dumpster so I'm starting off fresh, front and rear porch, I already got the permits now I'm moving forward.

MR. KANE: Cutting down substantial trees and vegetation?

MR. SABINI: The only trees I ever cut down, Mr. Chairman, were the trees that would affect this envelope, even next to the neighbor that has a driveway issue I left them a buffer between the two of us.

MR. KANE: Creating water hazards or runoffs?

MR. SABINI: No, no, it runs to the rear of the property and I think Frank Cavalari's farm backs up to it, it's like 180 acres so it's the tail end of his and you can see a rock wall dividing the rear of the property.

MR. KANE: No easements running through that area?

MR. SABINI: No, I'm just going to grant him a right-of-way or something, I have to do something for him.

MR. KANE: Further questions from the board at this time?

MR. DITTBRENNER: Where will the driveway coming in off Mt. Airy be?

MR. SABINI: The driveway's going to come if your back is to this lot and you're looking straight on, you look at the house that I bought, and to the left there's a vacant lot, it would be the right side, what I'm going to do is come in with a garage under.

MR. DITTBRENNER: Can you show me?

MR. SABINI: Right here.

MR. KANE: Opposite the existing driveway, other side of the house?

MR. SABINI: Yes, see this driveway, I would come in on this side and come in and come underneath the house and put a small retaining wall over here and a wall so, you know, they don't drive off and you have a good enough slope and I can make that work a garage under.

MR. KANE: Do me a favor, Jerry, for the public hearing, bring me a couple pictures just showing the road frontage going down the front of that just so we can see where the driveway's coming out visually.

MR. SABINI: Want to see the sight distance from both ways?

MR. KANE: Exactly.

MR. SABINI: I can provide that, sure. Do you want a picture of the house?

MR. KANE: I don't need that, just the site for me.

MR. SABINI: Okay.

MR. KANE: This is the house right here?

MR. SABINI: That's the existing house that's over to the right, I'm trying to dress that up.

MR. KANE: Further questions at this time?

MR. BEDETTI: What did you say was to the rear?

MR. SABINI: Frank Cavalari's farm 278 acre piece and I'm the rear end of Frank's farm, I think he has 90 houses approved on there already, it's the back end of his.

MR. BEDETTI: How far away are you to the, to the wetlands back there?

MR. SABINI: That's what I mean, this thing slopes off this lot then there's a property line made out of boulders and then like, you know, I know what you're talking about, 50 yards on it goes flat and goes on and heads up to Frank's. But I'm way, my property stops way before that starts.

MR. TORPEY: What are we doing with the empty lot? I'm confused.

MR. SABINI: The house that I bought?

MR. TORPEY: On this lot?

MR. SABINI: No, on the lot next to it. This is what I'm proposing and there's already a house over here that I already bought and I just, this is a diagram I showed this to Jen, that's what I want to do, I basically did a drawing quick and had an engineer and a surveyor do the work so I'm trying to build a house,

create some jobs, you know what I mean? Sell a house in the 289 mark, 294, I mean, affordable, you know. It's tough in the Town of New Windsor, it's Cornwall schools, you know, it should sell.

MR. KANE: Any further questions? I'll take a motion to set up for a public hearing.

MR. DITTBRENNER: I would make a motion we move the application for Jerry Sabini forward to a public hearing as it relates to variance required for a 22 foot rear yard setback.

MR. BEDETTI: I'll second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. SABINI: Thank you very much.

MR. KANE: All set up for a public hearing.

MR. SABINI: Have a good night, thank you.

RAYMOND_YANNONE_III_(10-01)

MR. KANE: Raymond Yannone III, request for an interpretation for an existing house with two kitchens creates a two-family house on an undersized lot at 290 Riley Road.

Mr. Raymond Yannone III appeared before the board for this proposal.

MR. KANE: Good evening, you want to state your name and address and speak loud enough for this young lady to hear you and tell us what you want to do.

MR. YANNONE: Raymond Yannone, 290 Riley Road, New Windsor. What I'm asking for is a 62,000 square foot variance for a two-family house, my house is now on 290 Riley Road New Windsor, I'd like to install an oven downstairs where I have a wet bar.

MR. KANE: So let's straighten you up right away. You don't want a variance for a two-family house in the zone that you can't possibly get it in. What you want is an interpretation.

MR. YANNONE: Originally zoned for a two-family house just the lot is too small.

MR. KANE: Are you going to use it as a two family?

MR. YANNONE: For my brother to live in the basement, give him his own space. Right now he's upstairs with me.

MR. KANE: Cause then the prelim, the notice is wrong.

MR. KRIEGER: Wait, when your brother doesn't live there anymore, is it your intention to have a unit to rent out?

MR. YANNONE: I have a large family, I always have two or three family members living with me, I mean.

MR. KRIEGER: You anticipate it will always be family members?

MR. YANNONE: I have two stepbrothers living with me right now, one of them is going through, in the midst of a divorce, he's been staying with me, my other younger brother is also staying with me. I'd like to move my younger brother down there with him.

MR. KRIEGER: You're anticipating it's always going to be family members?

MR. YANNONE: Yes.

MR. KRIEGER: So the way New Windsor defines a one-family house is all related people plus so many and I don't remember how many unrelated people, it's academic here because they're all related. So it would have a, he wouldn't have to have a two-family house, he would have to have a one-family house to do what he wants to do.

MR. YANNONE: I was just told that there was no mother-daughter in New Windsor.

MR. KRIEGER: The term mother-daughter never appears in the statute, it never appears, however, the definition of single-family home takes that into account so there are some zoning ordinances in some towns that specifically talk about mother-daughter but this one doesn't. However, this definition takes care of that.

MR. KANE: Basically, what people formally did instead of going for a two-family house is look for an interpretation that they're having a second kitchen in there so that they can have family members move in and live with them and we get the interpretation correct

that there's a second kitchen. Have you been paying taxes on this as a two-family house all along?

MR. YANNONE: No, I have not but my ex-girlfriend and me we got really close, we have a joint checking account paying for everything together and her stepsister moved in downstairs and that's where this all came into play and her stepfather had a problem with me down the road after we had a bad breakup so he decided to call up the town and report me for renting her out the basement. I was paying taxes on the money she was paying me despite that.

MR. KANE: The home itself has it been used as a two-family home over the last X amount of years or has it been used as a one family?

MR. YANNONE: I put the oven in downstairs.

MR. KANE: Not asking you to qualify, you're not under any kind of duress here so very simply, you've used it as a one-family home all along?

MR. YANNONE: Always been some type of family.

MR. KANE: Okay, and your intention is to continue to use it just for family?

MR. YANNONE: Yes.

MR. KANE: So family may use that, you have no intention of renting to somebody that's not family?

MR. YANNONE: Exactly.

MR. TORPEY: How many meters are on the house?

MR. YANNONE: One meter, everything I pay for one meter, no other utilities.

MR. KRIEGER: You're allowed a certain number of unrelated individuals, don't know the, what the number is, I think it's 6.

MR. YANNONE: Just want to make sure everything's legal, I don't have any disputes or problems down the road.

MR. KRIEGER: That's the purpose of you being here to make a record, see the reason the chairman is discussing this is that the standards that the state has created for creation of a two-family house are stiff but the interpretation is entirely up to the local zoning board, it's a much lower hurdle.

MR. KANE: Part of what we're doing is well when we go to a public hearing, you're legally liable to answer the questions correctly and we'll have you on record that you have no intention of using it as a rental income second apartment that you're going to use just for family. And under those circumstances, normally you'd just go for an interpretation that's going to be a kitchen, it's going to be used for family members as an apartment. Normally under those circumstances you do not have a second set of utilities coming in, you know, it's all one thing, it's one family and you divvy out that cost somewhere else.

MR. YANNONE: Yes.

MR. KANE: But that way we keep it as a single-family home in there and you get the right to use it that way.

MR. YANNONE: All right.

MR. KANE: And that's I think that's what you want to do.

MR. YANNONE: That's what I'm looking for, I just wasn't aware if I can go that route.

MR. KANE: And that's exactly how they wrote you up to send you in here was an existing house with two kitchens and they put down that it creates a two-family home because they don't consider mother-daughter and the reason that the building department is we don't want illegal apartments, we want everything to code and everybody protected.

MR. YANNONE: Exactly.

MR. KANE: So basically what you want to do is then go for an interpretation of having a second kitchen in there.

MR. YANNONE: Yes.

MR. KANE: Going the other route which is your right becomes extremely difficult.

MR. YANNONE: No, I wouldn't want to make it any harder.

MR. KANE: What you want to do is get an interpretation of having a second kitchen in a single-family home and most of the questions that you will be asked here right now is basically the same thing you're going to be asked at the public hearing except then neighbors are going to be notified and they'll come in and if they have questions, they'll ask their questions and we have to ask them at the same time too. Further questions?

MR. BEDETTI: Just to carry that a little bit further, in the event you wanted to sell that house, you have to sell it as a single-family house, you could not sell it as a two-family house.

MR. YANNONE: Yes, no, that's understood.

MR. KANE: That's what I meant about the taxes, it

seems to me that you've been paying taxes on a single-family home not a two-family home which would make it a pre-existing condition.

MR. KRIEGER: Might.

MR. KANE: Might, correct.

MS. JULIAN: Do I take that out for the public notice?

MR. TORPEY: Is there an existing kitchen already or do you have to put it in?

MR. YANNONE: When we built the house, we built it a little bit different than the original plans called for that the town has, the town called for it like this, this is the downstairs that I want to make an apartment, actually have a utility room with a wet bar here. What I did when I was building it before the C.O. was we made the wet bar bigger with cabinetry and later I want to put the oven and refrigerator, what it is is a wet bar, just want to add an oven.

MR. KANE: Further questions? So do you understand what we're talking about?

MR. YANNONE: Yes.

MR. DITTBRENNER: Is there a lease between you and your ex-girlfriend's sister?

MR. YANNONE: No, there's not. I have never had a lease between me and the neighbor down there.

MR. KANE: Okay, any further questions?

MR. TORPEY: Nope, I'm good.

MR. KANE: I'll take a motion. Sir, so you know in New Windsor we hold two meetings, we hold a preliminary

meeting so we can get a general idea of what you want to do and make sure you have all the information we need to make a decision. Lot of towns it's a one shot deal, you walk in, if you're not prepared so be it. So here we get a good chance to tell you what we need to make a decision and make sure that you know what you're applying for to a certain degree, that's why we do a two step on this. By law, everything we decide has to be at a public hearing. Further questions? I'll accept a motion.

MR. BEDETTI: I'll make a motion we schedule a public hearing for Raymond Yannone III for an interpretation of an existing single-family home with two kitchens at 290 Riley Road in an R-3 zone.

MR. TORPEY: I'll second that.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. KANE: This letter will tell you everything you have to do. If you have any questions, call Nicole.

MR. YANNONE: Thank you.

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PUBLIC HEARINGS

JIM MORONEY_(09-38)

MR. KANE: Tonight's first public hearing Jim Moroney, request for six existing wall signs which exceeds the maximum number of signs permitted and exceed maximum height and width permitted at 833 Union Avenue in a C zone. No one present, we'll move on.

MATTHEW_HANNA_(09-36)

MR. KANE: Next is Matthew Hanna request of a proposed 24 x 48 accessory building, variance to permit 23 foot of height and the building to project closer to Roosje Lane than the principal building at 1 Roosje Lane. Is there anybody here for this particular hearing? Okay, we're just going to have you sign your name and address so that we have it for the stenographer and when the public portion opens, you can speak at that point. Okay, Matt, do you want to tell us what you want to do? State your name address first for the stenographer.

MR. HANNA: Matt Hanna, 1 Roosje Lane, Rock Tavern. I'm proposing a garage to be built in what's now I guess it was considered the front yard of the property, it's an 1820's colonial so the original front yard was Toleman Road and the private road was then put in which now is considered my front yard. So, again, there's not really any other logical spot to be able to put the outbuilding so we're requesting a variance for it to be closer to the road than the primary dwelling. And the plans also have a 22 or about a 23 foot total height which would also require a variance.

MR. KANE: Cutting down trees, substantial vegetation in the building of the accessory building?

MR. HANNA: No.

MR. KANE: Creating water hazards or runoffs?

MR. HANNA: No.

MR. KANE: Any easements running through there?

MR. HANNA: No, my utilities run there but that's it.

MR. KANE: And as you said before, this is the best

spot on your property to build this structure, you have a well going down behind it?

MR. HANNA: Correct, the well's directly behind so this will be I guess if you're looking at what's now considered my front yard it's to the right so it's actually the rear of the building.

MR. KANE: Questions from the board?

MR. KRIEGER: This will be screened from the road?

MR. HANNA: It's set back from the road, there's a row of trees and all the trees that are on my property, yes.

MR. KRIEGER: Approximately, how far is it set back from the road?

MR. HANNA: From Toleman or Roosje?

MR. KRIEGER: From the closest roadway?

MR. HANNA: I guess that's being interpreted as Roosje Lane, it would be close to Roosje Lane so it would not be screened from Roosje Lane but from Toleman the main road it will be screened considerably.

MR. KRIEGER: It's how far from Toleman?

MR. HANNA: If I were to guess it's--

MR. KRIEGER: Just approximate.

MR. HANNA: I'd say 100 plus feet.

MR. KRIEGER: More than 100 feet?

MR. HANNA: I would imagine.

MR. KANE: Looks like 215 feet.

MR. HANNA: It's a considerable distance from Toleman.

MR. KANE: Other questions from the board at this time?

MR. DITTBRENNER: Where does Roosje end, does it just end at the back of this parcel?

MR. HANNA: That's actually the beginning of the driveway to the flag lot so that there's Roosje Lane which is in essence a private road and that begins the driveway for the flag lot in the rear, I don't know if this one helps but this is, here's the property and my property continues back here but again and we're proposing this right here and this is another lot right here.

MR. DITTBRENNER: Roosje ends at the end of that cut-in of your property and the property to the rear?

MR. HANNA: The rear.

MR. TORPEY: It's confusing.

MR. KANE: I love when they put these things together.

MR. HANNA: Well then there's a nice rectangle one here and one here but this one because of the original existing house was ours and then was cut at the flag lot back here as well.

MR. BEDETTI: On that drawing there could you point out your property boundaries?

MR. HANNA: Right here, goes right up through the middle of Roosje Lane and cuts right across here to I guess it's sort of right in the middle there and shoots straight back and then yes, this right here is what you have a picture of so this area right here and that's

right where the utility box is actually.

MR. BEDETTI: There's a structure that looks like a three car garage to the right of Roosje, is that your property?

MR. HANNA: That's not my property, that would be the Roosje's property.

MR. BEDETTI: That's who?

MR. HANNA: Roosje, the namesake for the road.

MR. KANE: Further questions at this time? If not, I'll open it up to the public, please state your name and address, speak loudly so this young lady can hear you and ask away.

MR. HOUSTON: Okay, my name is Ron Houston, I live at 4 Roosje Lane, Rock Tavern, New York. And I'd like to thank you for providing me with a notification about this hearing and allowing me this opportunity to speak with you to address my concerns. First, I would like to add and clarify several statements that Matt Hanna made to the Zoning Board of Appeals members at the preliminary meeting held January 11. Matt stated in part that there was a private road created off Roosje Lane which is in essence basically his side yard which is now considered his front yard so he said the garage that we're proposing would be toward the rear of the house as it sits on the property but due to the fact that there's now a private road it's going to be closer to Roosje Lane than his primary residence. What I'd like to say is to add to this is that this private road was created in part to access my house which is located behind Matt's property and this is the only way I can get to my house. Mr. Hanna's side yard is therefore in effect my front yard cause you have to go by it to get to my house and he's proposing to place this building near the entrance to my house in front of my property.

Secondly, I'd like to state that Mr. Kane asked Mr. Hanna if this building would create any water hazards or runoffs and Mr. Hanna answered absolutely not. And I'd like to bring to your attention that I do experience flooding at the beginning of my driveway on both the left and right side and the area adjacent to the area where Mr. Hanna's proposing to build this structure floods. This area houses the Central Hudson's electric utility box and my electric and power lines. Now when I first moved into the house when this area flooded the water would somehow follow these power lines underground and come through the bottom of my electric box and enter my basement and flood my basement. I was finally able to correct this by grading the landscaping near the electric meter. While I still no longer have flooding in the basement, the area around the entrance to the driveway which borders Matt's property and is right near where he wants to build this structure still floods and I'm concerned that any structure built near this area may cause increased flooding or cause new flooding to occur and possibly affect my basement again. Mr. Dittbrenner and Mr. Kane asked Mr. Hanna about a utility easement and Mr. Hanna said that it is not an easement, it's underground just from his box to the house. But those lines run to the Central Hudson utility box as I just mentioned on the front of my property and I believe those underground power lines that are along Mr. Hanna's property service at least my house and possibly others.

MR. KANE: Those weren't the lines we're talking about, just so you know, we're talking about this line that he has that runs underground from that electric box to the house.

MR. HOUSTON: Yeah, these utility lines that run right here to this box.

MR. KANE: Not talking about that at all, doesn't come

anywhere near those, we're talking, we're talking about this line that runs from the box directly to the house.

MR. HOUSTON: There are lines running here.

MR. KANE: They're not underneath the building so they don't inhibit that.

MR. HOUSTON: They're right here where the building can be.

MR. KANE: Are you stating that the building is going to go over those lines?

MR. HOUSTON: That's another point I have to clarify.

MR. KANE: He's said they're not.

MR. HOUSTON: I'll get to that in a second if it's okay, I just want to finish. So concerning those lines, I just want to clarify that cause I wasn't sure what was meant cause there are power lines going under there and the telephone and cable all go under that property. Then Mr. Hanna's requesting a variance to allow the building closer to Roosje Lane than the principal building but it didn't state how much, how close to the road and there's nothing to indicate, you know, where exactly how much of a variance. So I asked him and based on what he told me, we're looking at like maybe a 50 or 60 foot variance which is a large variance, it's not a small variance, it's pretty huge. And then the height and size of the building based on paperwork is a two story 20 foot by 48 foot structure, I mean square footage wise that's over 2,300 square foot and it's also going to be 23 feet high, that's a tall structure. This is a very large structure in general and this is going to be placed again at the entrance to my house. It's like placing another house right in front of my house. And we would be looking at the back of the garage and it would block my view and

we're concerned that it might seriously devalue the value of our house, depreciate the value of our house. Just last week I was looking out the bedroom window and we can look across the road and there's a nice horse farm, we can see the horses and the fence and I just realized with this building up there I'm not going to be able to see that, I'm going to be able to look at the back of a structure. So I think basically that's my concerns.

MR. KANE: Okay, do you want to address some of the statements?

MR. HANNA: When he says that he gets to look across the street, he looks into our back yard and unfortunately Bert's back yard, it's the nature of a flag lot.

MR. KANE: Let's forget the view, let's get down to the flooding discussions and anything to do with those power lines.

MR. HANNA: Power lines, the structure's nowhere close to them, they would, it would run over my power lines, I actually called New York Digs already, they came out, in fact, I'm going to call again once I intend and they let me know that once I achieve, take care of whatever else I need to take care of but they came out and flagged it and the structure by no means goes over anything other than mine.

MR. KANE: Can you give us an approximate from the road?

MR. HANNA: Fifteen feet easily from those power lines.

MR. KANE: So the edge of the building is going to be about 15 feet from the road?

MR. HANNA: That's what we're proposing, correct.

MR. TORPEY: You can't bring it back a little bit?

MR. HANNA: Yeah, we could and that's as I discussed with Ron that's, I'm not trying to slight Ron, we had a conversation about it and I understand, I mean, it's a fairly good sized structure but we also we want to have a garage and that's really the only logical place on the property for it.

MR. KANE: Here and now is the time and place to tell us how far you're going to move that back to get a decision, this can't be left up in the air.

MR. HANNA: Right, it wouldn't be 40 feet, it wouldn't be, I mean, if anything we could do probably 20 feet to be able to not impede with the well.

MR. KANE: I understand, again, you're saying probably 20 feet, we need an exact number.

MR. HANNA: I can commit to 20 feet.

MR. KANE: You have to tell us.

MR. TORPEY: How close to the well if you come back 20 feet?

MR. HANNA: It would be probably about 15 feet.

MR. TORPEY: How close do you have to be to the well?

MR. KANE: There's no regulation, enough room to get a truck in there to re-drill it if you need to but I don't know, I mean, whatever it is he's still subject whether it's approved to any building department rules that come up as far as that kind of stuff that I don't know.

MR. HANNA: With regards to the water, there's no, to

the back left-hand side there's water that when it rains heavily water builds up on the lawn there but not where the structure's going to be and not on the road, it's more in the lawn. And I would argue it's the same for Ron's property as well.

MR. TORPEY: On this map here where is his house?

MR. HANNA: This is his driveway begins here and the house is back here.

MR. TORPEY: So even if you brought that building back a little bit to stay with that line?

MR. HANNA: I wouldn't be able to do that.

MR. TORPEY: Not enough?

MR. HANNA: Well, no, that would be too much to come back, yeah, absolutely.

MR. KANE: Okay, further questions?

MR. HOUSTON: May I speak?

MR. KANE: Yes.

MR. HOUSTON: He does have a lot of property in the back where he could put it, he's got plenty of room back there if he wanted to place a structure and that would be within, I mean, if he needed a variance at that point it would be very minor. And I wouldn't object to that. But like you're talking about a huge variance here and I think one of the reasons why the inspector was correct in denying it is because, you know, that's a front yard, it's like my front yard even though it's not and, you know, it's just going to block up that whole area there and we're all the way in the back and we think it's going to make a big difference.

MR. KANE: Okay, thank you.

MR. HANNA: It's a flag lot so to be able to, to the left side of the house in the front we couldn't get a roadway off of Toleman Road cause it's not my driveway so we would, you know, if that's the case, it wouldn't be a garage at that point, we don't have farm animals, we don't have anything that we'd need a barn for so to put it that far back in the property it doesn't make sense for a garage.

MR. TORPEY: How much of a variance is he looking for? I'm only showing what?

MR. KANE: He's looking, the only variance that he needs is the height variance and the building projecting closer to the road.

MR. BEDETTI: That was the--

MR. TORPEY: So where does that come up to?

MR. DITTBRENNER: Can I ask for clarification? Isn't the height tied to a formula as it relates to proximity to the property line? So if it was moved back that variance may be mitigated to less or to nothing? What's the maximum height?

MR. BEDETTI: I think it's 15. May I be allowed to ask the gentlemen a question? Suppose on the, suppose the building were 15 feet high based on his current proposal which is really the only variance that he's asking for.

MR. HOUSTON: No, he's asking for a variance to come out because it's lined up with the house, it comes out about 60 feet passed the house, that's the variance that way and he's also asking for a height.

MR. KANE: Projects closer to the road than the

principal.

MR. HOUSTON: His house is way back and he's asking for it to come way out.

MR. BEDETTI: Well, if you were to move the house so that it didn't require that variance further to the back and make it 15 feet in height, would there be an objection to that?

MR. HOUSTON: I'm not sure if I follow you in terms of the location?

MR. DITTBRENNER: If you reduce the height of the accessory building and moved it back closer in line with the house.

MR. HOUSTON: Probably not depending on how many feet, you know, what you're talking about cause it's, I don't know how many feet you're talking about when you say back cause right now, I'm guessing it's about 60 feet out from the house so if you're talking like 20 feet, you know, something like that or 25 feet variance, you know.

MR. BEDETTI: How far from the, are you in front of the existing dwelling?

MR. DITTBRENNER: Looking at the layout you're saying this is going to be a garage, three car garage, is the entranceway to this garage going to be here?

MR. HANNA: That would be the front, correct.

MR. DITTBRENNER: Is there any reason why this needs to be positioned like this? You couldn't angle it and still have easy access to get into it maybe creating it like this on the property so it's not as obtrusive?

MR. HANNA: I don't know necessarily how that would

work, I guess I don't know that it would fit in there and we'd probably come a little too close to his property line at this point.

MR. DITTBRENNER: Still have access off the drive into the building and it would take all of this out of his purview and some of his concerns about this creating additional runoff into that area.

MR. HANNA: I hadn't looked at that, no, but, I mean, we sort of looked at here having three bays and then the outside whatever they call it the expansion shed.

MR. KANE: Something to think about. Let's move on to the next person in the public hearing.

MR. ROOSJE: My name is Bert Roosje, 415 Toleman Road. Actually, the thing got all screwed up because they changed the front of the house to the other end of the house and as far as I'm concerned, the front of the house is still toward Toleman Road. So, you know, and no matter how you get to the house the front of the house is still the front of the house like it always was. So, you know, as far as the wet, the wet comes from the back down this way, not from where the garage is going to be that way. Anyway, the rest of it's all downhill towards Toleman Road.

MR. KANE: So are you for or against?

MR. ROOSJE: I'm for it.

MR. KANE: Can we have your address?

MR. ROOSJE: 415 Toleman Road.

MR. KANE: Anything else?

MR. ROOSJE: It was 23 feet high?

MR. HANNA: Yes.

MR. ROOSJE: So that's what 8 feet higher than, which isn't that much I don't think, you can only get so much room in the square spot and the higher you go the more room you got. Thank you.

MR. KANE: You're welcome, sir, thank you.

MR. HANNA: I know somebody had asked the total height of the home, I couldn't measure to the peak but it's almost 19 feet to the start of the roof so it's considerably, the actual structure's considerably larger than the proposed building.

MR. KANE: Further questions, sir?

MR. HOUSTON: Well, yes, you're talking about the water, the water does come up this way but what happens is it slopes down like this into my property and if you take, change the structure around there I'm afraid of the runoff is going to come down cause he would have to set the landscaping up with the grade, come away from the house and it would go right into where my area is.

MR. TORPEY: Excuse me but how far is your house going to be from this structure?

MR. HOUSTON: It's right there, my house is right on the property line, my property's right there.

MR. TORPEY: A hundred feet, 50 foot, how close to the garage?

MR. HOUSTON: My house, my house is back but what happens is--

MR. TORPEY: How far back is your house from the garage?

MR. HOUSTON: About probably about a hundred feet but what happens is with the power lines there, I don't know why the water would get in, get into the lines and follow it and come into my basement and I have flooding so I had to regrade that area.

MR. TORPEY: That's a sealed unit those wires.

MR. HOUSTON: I don't know, I had problems, that's the only way cause they went in and they allegedly sealed it in the front and back and we graded it so that finally stopped it so I'm concerned about that any kind of runoff would be coming in the other direction cause if it comes in the direction plus the other way it's coming then I might have an additional problem. And the other thing I'd like to bring to your attention is that's what I'm looking at now on the other side of where Mr. Roosje's garage is.

MR. KANE: You're showing me pictures of tractors that have absolutely nothing to do with this, has nothing to do with what we're talking about.

MR. HOUSTON: Well, the thing is I'm concerned about more structures and devaluing the value of my house, that's the only thing I'm bringing out, that's the point I'm trying to make, I'm not trying to--

MR. KANE: I know but tractors on the property don't do anything one way or the other, sir.

MR. HOUSTON: No, I'm saying it's behind his garage which is on the other side.

MR. KANE: It's the nature of the lots that you have back there, you're going to see behind something behind his house or on his property, it's unfortunate those lots were built that way.

MR. HOUSTON: I agree with you.

MR. KANE: Any further questions right now?

MR. HOUSTON: No, sir.

MR. KANE: Thank you. At this point, we'll close the public portion of the hearing and ask Nicole how many mailings we had.

MS. JULIAN: On the 13th day of January, 2010, mailed out 25 addressed envelopes with no written response.

MR. KANE: Bring it back to the board for further questions.

MR. DITTBRENNER: Well, I would just ask the concerns highlighted by your neighbor and your earlier comments to make consideration of maybe a different placement, is there anything you'd like to modify at this point?

MR. HANNA: I mean, I'm willing to do the best we can to have the structure again as far off and I don't have specific measurements but I'm not trying to upset anybody in the neighborhood but the way it's positioned, yes, I would like to keep it facing that same direction just for sort of the symmetry of the property as well. It's a very old 1820's home, it's part of the colonial design which are very sort of right lines, right angles and we propose that the building fits that architecturally and, I mean, I have those drawings as well, those renderings anyway, we intend to clapboard structure and again, very much this similar design fit with the colonial, it's a center hall colonial and we'd like it to fit, the outbuilding to match.

MR. TORPEY: Looks like it's been there.

MR. HANNA: Absolutely, and, I mean, we're not proposing a metal garage.

MR. KANE: Two ways I see that we can proceed, we can proceed in voting on what you're proposing and what you have given us with the information tonight and I've got to be honest without actual numbers coming in that that's a rough vote for me on the numbers. Or we can table this discussion for the time being to give you a chance to take a look at what we're talking about and see, come back with some actual numbers for us on how far off the property it's going to be. Totally up to you.

MR. HANNA: Based on the structure right now, I can commit to 15 feet off both property lines off of the road which isn't actually the property line off of the road, it's 15 feet and 15 feet from that as well, that's something I'm comfortable. We measured that, I can't without measuring again commit to anything beyond that.

MR. KANE: Can you show me right here where the property line is?

MR. HANNA: Right here's the actual property line, this dotted that goes right up the middle of Roosje Lane.

MR. KANE: The long and the short?

MR. HANNA: Correct, that's the property boundary so I'm not proposing 15 feet of that because the majority of that is the road 15 feet of the road.

MR. KANE: So your property line is up there so you're probably going to be 50 feet off of your own property line?

MR. HANNA: No, I wouldn't imagine.

MR. DITTBRENNER: Fifteen feet of the road, the road is probably no wider than 20 feet.

MR. HANNA: It's considerably wider.

MR. KANE: I'm trying to look, isn't that, tell me if I'm wrong, does that say that the corner of the house from the end of the road is 52 feet?

MR. HANNA: No, that's the property line, that's the front, from what I'm understanding you see the full picture this is my property right here, cuts right down the middle of a 50 foot wide swath so that would be 25 feet off my property line.

MR. KANE: I'm just looking at dimensions right here, this corner here to this line right here is saying 52.2 feet, all I'm using that as a measure to take a look.

MR. HANNA: Right, that's about where the structure sits in there and what I'm proposing is 15 feet off the actual asphalt so you can see that sort of the dotted line there, this is my property line, this is the line of the road, we would come 15 feet of the line of the road in addition to the 25 feet.

MR. KANE: The electric box is that in the right on the corner of the asphalt?

MR. HANNA: Yes, well, it's a few feet off, yes.

MR. KANE: I'm just trying to get a visual.

MR. HOUSTON: It's right on the property line.

MR. KANE: Yes, that's what it looks like.

MR. BEDETTI: Is it possible to modify the height of the building to 15 feet code?

MR. HANNA: From the plans that we have existing, no.

MR. KANE: Further questions?

MR. TORPEY: No, I'm good.

MR. KANE: Then I'll accept a motion.

MR. BEDETTI: I'll make a motion that we grant the request for a proposed 24 x 48 accessory building that sits closer to the Roosje Lane than allowed by code and a variance for the height of that building of 8 feet as requested for Matthew Hanna, 1 Roosje Lane in an R-1 zone.

MR. TORPEY: Second it.

MR. KANE: You need to correct the 15 feet from the edge of the asphalt to the, I don't want to say the front of the building.

MR. BEDETTI: Distance is 15 feet from the edge of the asphalt. Let's see--

MR. DITTBRENNER: And from the rear property line.

MR. KANE: Right.

MR. BEDETTI: The variance is as written is what 23 feet from proposed?

MR. KANE: As the height and it's just building projected closer to the road which we would just normally vote on but now we have some numbers.

MR. BEDETTI: That's the modification of the 15 feet.

MR. KANE: Fifteen feet from the property line and 15 feet from the road.

MR. HANNA: Fine.

MR. TORPEY: Second it.

ROLL CALL

MR. DITTBRENNER AYE

MR. BEDETTI AYE

MR. TORPEY AYE

MR. KANE AYE

MR. HOUSTON: Do I have any further appeal rights?

MR. KANE: Not that I know of.

MR. KRIEGER: Well--

MR. KANE: Article 78?

MR. KRIEGER: It's not a question that any member of the zoning board can answer because whether you have any legal rights to pursue it is outside, is outside the town's structure, they're legally prohibited from giving you legal advice which they would be.

MR. HOUSTON: I was just asking within the town's structure.

MR. KRIEGER: There's no procedure set up within intramurally if you will to review this decision. The only review would be as a result of court action.

MR. HOUSTON: Thank you.

MR. KANE: Have a good evening.

RICARDO_RIVERA_(10-02)

MR. KANE: Next public hearing Ricardo Rivera request of a variance for a proposed pool deck that will be connected to the house. The pool deck will be 12 feet to the rear property line, 40 feet is required, a variance of 28 feet is required at 123 Cremery Drive.

Mr. Ricardo Rivera appeared before the board for this proposal.

MR. KANE: Same thing as the preliminary, state your name and address and tell us what you're looking to do.

MR. RIVERA: Ricardo Rivera, 123 Creamery Drive, New Windsor, New York 12553.

MR. KANE: Just tell us what you want to do just like you were never here.

MR. RIVERA: This is my first time, I'm sorry. I propose to build a deck that's attached to my house to my pool, want to make it nice and safe for my kids to enjoy the yard. I don't have a huge yard, it's the only way to go. I'm not in anybody's way, it's not in anybody's, you know, there's really nothing behind me but just like somebody's yard but they rarely go back there, there's no structure.

MR. KANE: It's the safest spot in the yard to build the pool, basically?

MR. RICERA: Yes.

MR. KANE: Cutting down any trees or substantial vegetation?

MR. RIVERA: No.

MR. KANE: Even though it's a pool, you're not creating

water hazards or runoff?

MR. RIVERA: No.

MR. KANE: Any easements running through the area where you want to build the deck?

MR. RIVERA: No.

MR. KANE: You understand that even though you're granted if we approve the proposed deck that you're required to follow all of the instructions from the building department as far as building the deck, self-locking gates, that kind of stuff?

MR. RIVERA: I spoke to the building department.

MR. KANE: The deck is also a safety feature for the sliding doors and the other door coming off the back of your house?

MR. RIVERA: Yes.

MR. KANE: At this point, I'll open it up to the public and ask if there's anybody here for this particular hearing? Seeing as there's not, we'll close the public portion of the meeting and ask Nicole how many mailings we had?

MS. JULIAN: On January 12, 2010, I mailed out 51 addressed envelopes with no written response.

MR. KANE: We'll bring it back to the board and open it up to the board for further questions.

MR. DITTBRENNER: This deck will face the rear of the property, the rearyard of the property behind you?

MR. RIVERA: Yes.

MR. KANE: Behind you on that corner is that McQuade back over in there or are you a little closer up?

MR. RIVERA: McQuade is--

MR. KANE: Further out that way?

MR. RIVERA: Yes.

MR. KANE: And the size pool you have if I remember is an 18 round?

MR. RIVERA: Yes.

MR. KANE: Which is basically one of the smallest round pools you can get so it's not an oversized pool that you're looking to put in?

MR. RIVERA: No, that was the only thing that can fit.

MR. KANE: Any further questions from the board? If not, I'll accept a motion.

MR. DITTBRENNER: I move we approve the application of Ricardo Rivera to build a pool deck that requires a 28 foot variance for the rear yard setback.

MR. BEDETTI: I'll second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. TORPEY	AYE
MR. KANE	AYE

PRELIMINARY_MEETING: (CONTINUED)

PATRICK_TORPEY_(09-37)

MR. KANE: Tonight's last preliminary hearing is Patrick Torpey request for a variance for an existing garage that projects nearer to the street than the existing house at 25 Blooming Grove Turnpike in an R-4 zone.

(Whereupon, Mr. Torpey stepped down from the board and appeared on his own behalf for this proposal.)

MR. DITTBRENNER: I just want to make sure that the record shows that the chairman admitted that he's getting old and he goes to bed early.

MR. TORPEY: My name is Patrick J. Torpey, 25 Blooming Grove Turnpike, I don't want to do anything cause it's done already.

MR. KANE: Explain the situation.

MR. TORPEY: I've got a garage at my house that's sticking out a little farther than my house to the road, to the existing road.

MR. KANE: This is a unique situation?

MR. TORPEY: Very unique.

MR. KANE: Can you explain it please?

MR. TORPEY: It's underground.

MR. KANE: And it's been that particular structure has been underground since?

MR. TORPEY: Early 1800s.

MR. KANE: It's been used for?

MR. TORPEY: A water tank, it was a water tank for Plum Point so what I did was I opened up the one side and I put two garage doors and using it for a storage shed.

MR. KANE: To your knowledge, was it used for anything over the years before that?

MR. TORPEY: No.

MR. KANE: And there's, since the garage that you have is underground, there's no way that you can see the structure then, it's closer to the road than your main home?

MR. TORPEY: No, you couldn't see it.

MR. KANE: I'll accept a motion for a public hearing.

MR. BEDETTI: Don't I get a chance to ask him a question?

MR. KANE: Do you want to ruin all your fun now?

MR. BEDETTI: Is the roof actually either at ground level or slightly above?

MR. TORPEY: I uncovered it to seal it but I'm covering it back up, it's still underground.

MR. KANE: So it was covered with dirt?

MR. TORPEY: Well, I cleaned it off a little bit but I was going to take the dirt off, I had to take the dirt off to clean it.

MR. KANE: How thick was the dirt on top?

MR. TORPEY: About four foot.

MR. KANE: Your intention is to put that back on?

MR. TORPEY: Not so much, maybe a foot, little vegetation. Andy, how does that work when it's under the ground when it's closer to the road than the existing residence that I live in but how does that work since it's, you can't see it?

MR. KRIEGER: As far as I recall, a structure is defined in the New Windsor Code as projecting six inches or more above the surface of the ground so that would be a question here as to whether or not it is a structure. I would suggest that first of all that members of the board may want to look at photographs, go by and look at the building or either.

MR. TORPEY: Can't see it.

MR. KRIEGER: Well, the photographs would show that.

MR. TORPEY: Do a drive-by, correct.

MR. KRIEGER: The reason that I suggested both is that photographs then become part of the file of the record and they're easily incorporated in a file and so the, and of the fact that the photographs show nothing might, don't show any visible structure might be helpful.

MR. TORPEY: Well, I should of had that for this meeting.

MR. KRIEGER: You don't have to have anything for a preliminary.

MR. KANE: Still has to be decided in public no matter what.

MR. DITTBRENNER: Can I ask a question? Can we move this forward to a public hearing and at the same time request that the building department give us a determination as to whether it even qualifies as a building?

MR. KRIEGER: Yes.

MR. DITTBRENNER: Because when I read through it, I did not see anything that would qualify this as a building.

MR. KRIEGER: The answer to your question is yes, you can because when you authorize him to go to a public hearing and you're not requiring him to do anything you're simply giving him permission to do that.

MR. KANE: So if we find out something in the meantime then he can just bail.

MR. KRIEGER: Even if he finds out it's not necessary then he doesn't have to go to the time and expense of a public hearing but if he thinks it should be done he would then be authorized to do it.

MR. DITTBRENNER: In the essence of time, Mr. Chairman, I would provide you with a motion to move Mr. Torpey's application forward for a public hearing as it relates to an existing garage which requires a variance for projecting nearer to the street than the existing home at the same time requesting that this be referred to the building department for a determination as to whether this is in fact a building.

MR. BEDETTI: I'll second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. TORPEY	AYE

MR. KANE

AYE

MR. KRIEGER: I believe that this was a question which was approached previously informally and for the purpose of making a record knowing the practice of the building department, it was suggested to Pat that it might be to his advantage to get a variance if he didn't need it or--

MR. KANE: Just to clean it up.

MR. KRIEGER: So he doesn't get caught in a bureaucratic buck passing.

MR. TORPEY: Exactly right, it all started that way but he says you might not even have to be there, for instance, he said can't even see it, it's not even a structure, it's underground.

MR. KRIEGER: So I would suggest that Mr. Dittbrenner's motion may be amended to allow an interpretation as to whether or not it's necessary because the building department may not come back with a clearance and it may be up to this board just the same as it is with a two kitchen situation to simply render an interpretation that it's not necessary and then the building department has somebody else tell him.

MR. KANE: And you have something else documented that handles that.

MR. DITTBRENNER: I will modify my motion to provide for that unless you have something.

MR. BEDETTI: I just want to make a comment, you know, if it were going in the other direction though if the interpretation was, well, if you look at it and the roof's aboveground, we determine that it really is part of the structure is aboveground and that's our determination that it's a structure then you have to go

through the whole process all over again.

MR. KANE: No, we would just continue from there.

MR. KRIEGER: Interpretation or variance, if he fails in the interpretation then he can proceed to the variance without having to go over again.

MR. KANE: We set him up for an interpretation, he gets turned down, we go to the variance or whatever it is they're looking for at that point, we don't make him come back a second time.

MR. BEDETTI: It may be important to determine what the reference line is as to what's considered to be underground level and what's not.

MR. KANE: This way at least it clears it all up for him.

MR. DITTBRENNER: Motion has been made and modified to include the interpretation.

MR. BEDETTI: I'll second that.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. KANE	AYE

MR. KANE: That's it. Motion to adjourn?

MR. DITTBRENNER: So moved.

MR. BEDETTI: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
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MR. BEDETTI	AYE
MR. TORPEY	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth
Stenographer

